

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al., \*  
\*  
Plaintiffs, \*  
\*  
v. \* 05-CV-0329 GKF-PJC  
\*  
TYSON FOODS, INC., et al., \*  
\*  
Defendants. \*

\*\*\*\*\*  
VIDEO DEPOSITION OF DANNY LYNCHARD  
\*\*\*\*\*

ANSWERS AND DEPOSITION OF DANNY LYNCHARD, produced as a witness at the instance of the Defendants Cargill, Inc. and Cargill Turkey Production, LLC, taken in the above-styled and -numbered cause on the 10th day of April, 2009, A.D., beginning at 8:36 a.m., before Lisa Smith, a Certified Shorthand Reporter in and for the State of Texas, in the offices of Rhodes, Hieronymus, Jones, Tucker & Gable, PLLC, located at 100 West Fifth Street, Suite 400, Tulsa, Oklahoma, in accordance with the Federal Rules of Civil Procedure and the agreement hereinafter set forth.

Walker Declaration Exhibit 7

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A P P E A R A N C E S

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## E X H I B I T L I S T

No.	Description	Page Mrk'd	Page Ident.
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P R O C E E D I N G S

THE VIDEOGRAPHER: This is Tape No. 1 to the videotaped deposition of Danny Lynchard in the matter of State of Oklahoma versus Tyson Foods, being heard before the U.S. District Court for the Northern District of Oklahoma, Case No. 05-CV-0329 GKF-PJC. This deposition is being held at 100 West Fifth, Suite 400, Tulsa, Oklahoma on 4/10/09 at 8:36 a.m.

My name is Ann Davis. I am the videographer. The court reporter is Lisa Smith.

Counsel, will you please introduce yourselves and affiliations and the witness will be sworn.

MR. DOLAN: Christopher Dolan of Faegre and Benson for the Cargill defendants.

MS. LLOYD: Jennifer Lloyd for George's, Inc.

MR. WILKERSON: Brian Wilkerson for the plaintiffs.

THE REPORTER: Are there any stipulations or agreements you want on the record?

MR. DOLAN: No.

DANNY LYNCHARD,  
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. DOLAN:

Q. Good morning, Reverend Lynchard.

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1 A. Good morning.

2 Q. As I stated earlier, my name is Chris Dolan. I  
3 represent the Cargill defendants. We just met a moment ago  
4 for the first time.

5 Have you ever been deposed before?

6 A. Yes.

7 Q. All right. And how many times have you been  
8 deposed?

9 A. Once.

10 Q. All right. And was that a civil matter or a --

11 A. Yes.

12 Q. -- criminal matter?

13 A. Civil matter.

14 Q. Can you generally give me a sense of what that  
15 matter was about?

16 A. It was in a home construction project that didn't  
17 go as the contract stated.

18 Q. All right. What -- you may have heard some  
19 instructions at that deposition. I just want to repeat  
20 them now so we have that on the record. Because we have a  
21 court reporter here today, it's really important that we  
22 just speak one at a time. So I'd ask that you wait until I  
23 finish a question before you give me your response and  
24 we'll be a lot more clear with each other that way. Does  
25 that work for you?

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1 A. Sure.

2 Q. All right. And you've been doing a great job of  
3 this so far. But because we have a court reporter, it's  
4 important that you give me a verbal response to questions,  
5 not a nodding up and down but a yes or a no or whatever  
6 answer the question calls for. Is that okay?

7 A. I understand.

8 Q. All right. And when I ask you a question, I'm  
9 going to assume that you understand the question when you  
10 give me an answer.

11 A. Okay.

12 Q. If I ever ask a question that is not clear or  
13 confusing to you, just let me know and I will -- I will  
14 rephrase the question and in a way that's more clear.

15 A. Okay.

16 Q. All right. If you need to take a break at all  
17 during the deposition, that's fine. Let us know. I'd only  
18 ask that you wait until we have a pause or a question has  
19 been asked and answered and we'll be happy to take a break.

20 A. That'll be fine.

21 Q. All right. Quick question, are you taking any  
22 medications right now that could possibly impair your  
23 judgment?

24 A. No.

25 Q. And just to remind you, as I'm sure you're aware,

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1 through the duration of this deposition, you're under oath  
2 and your testimony here is just like testifying in a court  
3 before a judge.

4 A. I understand.

5 Q. All right.

6 MR. DOLAN: I'd ask the court reporter to  
7 mark Exhibit 1.

8 (Exhibit No. 1 was marked.)

9 Q. Reverend Lynchard, I'm handing you an exhibit that  
10 has been marked by the court reporter as Exhibit 1. Do you  
11 recognize this document?

12 A. Yes.

13 Q. And what is this document?

14 A. That's the subpoena that I was -- at least a copy  
15 of one that was issued to me to appear here today.

16 Q. And is this the document that brings you here  
17 today?

18 A. Yes.

19 Q. Okay. If you read about halfway down the page,  
20 there's some typing in bold that asks you to bring with you  
21 any and all documents or electronically stored information,  
22 which could be e-mail, computer files that relate to any  
23 investigation of poultry operations in the Illinois River  
24 Watershed. Did you bring any documents responsive to that?

25 A. Yes. I brought my 1099.



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1 Q. 1099. All right. Do you have a copy of that at  
2 this time?

3 A. Yes.

4 Q. Reverend Lynchard, you gave me a copy of your 2007  
5 1099. Do you have a -- I'm sorry -- a 1099 for any other  
6 year?

7 A. No.

8 Q. And I notice this is the original. I assume you  
9 would like this back.

10 A. Yes.

11 Q. I will make a copy at my first opportunity and  
12 give this back to you. Did you bring any other documents  
13 that may be responsive?

14 A. I brought a pilot logbook and you're welcome to  
15 copy the pages.

16 MR. DOLAN: You know, let's -- let's go off  
17 the record for moment while I review this.

18 THE VIDEOGRAPHER: We're off the record at  
19 8:41 a.m.

20 (Break was taken from 8:41 a.m. to 8:46 a.m.)

21 THE VIDEOGRAPHER: We are back on the record  
22 at 8:47 a.m.

23 Q. (BY MR. DOLAN) Reverend Lynchard, we are back  
24 from a short break where I made copies of the documents  
25 that you brought with you today. I'm gonna hand back to

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1       you your original of your 2007 Form 1099.

2                   MR. DOLAN: And I'll ask the court reporter  
3       to mark Exhibit 2.

4                   (Exhibit No. 2 was marked.)

5           Q. Reverend Lynchard, I'm handing to you what has  
6       been Exhibit 2. Is this a copy of the 1099 for 2007 that  
7       you brought in?

8           A. Yes.

9           Q. All right. And if you could identify for me on  
10       this document who was the -- the -- the payer of this  
11       income.

12          A. Lithochimiea.

13          Q. That is about as best I can do with it as well.

14          A. Really.

15          Q. And are you -- what do you know about  
16       Lithochimiea?

17          A. All I know is that they were -- asked me to fly  
18       some of their investigators. I'm not sure what all they  
19       did.

20          Q. And if you look in Box 7, what was your  
21       compensation for 2007?

22          A. 4799.77.

23          Q. And is the address in the recipient's name 15088  
24       West Weaver Road, Sand Springs, Oklahoma, is that your  
25       current address today?

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1 A. Yes.

2 Q. Okay. And have you -- have you done any work for  
3 Lithochimiea in 2008?

4 A. No.

5 Q. Okay. And have you done any work for Lithochimiea  
6 in 2009?

7 A. No.

8 Q. All right. And to the best of your recollection,  
9 have you done any work for them in 2006?

10 A. I don't think so. I'm not for sure. I don't  
11 think so. I don't have any pay vouchers for that as far as  
12 I know.

13 Q. All right. Before we took a break, you also  
14 handed me copies of your flight log. We will have copies  
15 of that made and we will -- we'll discuss that in a little  
16 bit. Are there any other documents that you brought with  
17 you today --

18 A. No.

19 Q. -- responsive to this request? Did you at all  
20 communicate with anyone involved in this investigation via  
21 e-mail?

22 A. No.

23 Q. Okay. Did you ever obtain any paperwork or  
24 electronic documents responsive to your subpoena that you  
25 no longer have?

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1 A. I'm not sure I understand what you're asking for.

2 Q. Let me rephrase it. Are there any documents that  
3 you may have had one time that would have been responsive  
4 to the subpoena but you no longer have?

5 A. No.

6 Q. Okay. What did you do to prepare for today's  
7 deposition?

8 A. Gathered the documents that I had.

9 Q. Did you meet with -- with anyone to discuss your  
10 deposition?

11 A. Yes. We met with the attorneys -- I forget the  
12 date, just a few days ago.

13 Q. Was that at a meeting with other people involved  
14 in this investigation?

15 A. Yes.

16 Q. All right. And do you recall if any attorneys  
17 were present?

18 A. Yes.

19 Q. Do you recall the name of any of the attorneys?

20 A. No.

21 Q. Would that attorney have been Rick Garren?

22 A. That sounds correct.

23 Q. Okay. What was discussed at that meeting?

24 A. To simply let us know what the deposition was  
25 about and to give truthful, straightforward answers.

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1 Q. And what did they tell you the deposition was  
2 about?

3 A. The investigation regarding the Watershed.

4 Q. Okay. Did you have a chance to review any other  
5 documents before your deposition, beyond the documents you  
6 brought with you today?

7 A. No.

8 Q. Have you had any communication of any kind -- any  
9 communication of any kind, either on the phone, e-mail,  
10 text messaging of any sort with any of the other  
11 investigators involved in this investigation since you've  
12 been served with your subpoena?

13 A. I have talked with them, not about the  
14 investigation. Many of them work in the same office I do.

15 Q. Okay.

16 A. And we've mentioned that we were -- we were having  
17 this deposition, but nothing about what would be said or  
18 what each of us would say, nothing like that.

19 Q. Have you talked to any investigators or had any  
20 other form of communication with them since they've been  
21 deposed?

22 A. No. I did see Sergeant Huff. I asked him how  
23 long his deposition took and that's it.

24 Q. Thank you. I'd like to ask you a little bit about  
25 your background. Starting with high school, could you tell

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1 me your education progression.

2 A. I graduated high school in Cleveland, Mississippi  
3 in 1971. Somewhere around age 20, I went to Anaheim,  
4 California and enrolled in the seminary there. I was there  
5 three years and did not get a degree there, moved back to  
6 Oklahoma and in 1978 moved back to Oklahoma. I attended  
7 Oklahoma Baptist University and finally Newburgh  
8 Theological Seminary with a Bachelor's degree.

9 Q. And where is Newburgh Theological Seminary?

10 A. It's in Virginia.

11 Q. And what was your degree?

12 A. Bachelor's of ministries.

13 Q. Have you received any other education or training  
14 since Newburgh?

15 A. Through the years on the chaplaincy corps, I've  
16 received training for the work as chaplain through  
17 different agencies. So you know, you always get a  
18 certificate of -- of completion of small courses, but no  
19 degrees anything like that.

20 Q. Going back to your time in the seminary at I guess  
21 all three in Anaheim --

22 A. Uh-huh.

23 Q. -- at the Oklahoma Baptist University and the  
24 Newburgh Theological Center, at any of that time did you  
25 have any particular training on environmental issues?

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1 A. None.

2 Q. Okay. And in your training related to the  
3 chaplaincy corps, your certificate programs, did you  
4 receive any environmental training?

5 A. None.

6 Q. In the three seminary programs you mentioned, did  
7 you receive any training on investigation or observation  
8 techniques?

9 A. None.

10 Q. And during your chaplaincy corps training, was  
11 there any programming or -- or training on investigation  
12 techniques or observation techniques?

13 A. Crime scene protection, that kind of things but  
14 nothing environmental.

15 Q. Prior to going to the seminary at age 20, what --  
16 what sort of work experiences do you have?

17 A. I worked in a funeral home. I actually pastored a  
18 rural church during that time and I worked as an assistant  
19 to the chaplain at the Mississippi State Penitentiary.

20 Q. Did you have any work experience during seminary?

21 A. I was an assistant pastor for Melody Land  
22 Christian Center.

23 Q. Then after seminary, can you describe your -- your  
24 work history.

25 A. It's all been ministry oriented, either pastoring

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1 a church or working with chaplains.

2 Q. How do you get involved in the chaplaincy program?

3 A. Back in 1982, I was holding a youth meeting and I  
4 asked a police officer to give a Christian testimony. At  
5 the time he could not because of his bout with alcoholism.  
6 And he was Officer of the Year and he committed suicide  
7 shortly after that. And that got me in the chaplaincy.

8 Q. And currently what -- what position do you hold  
9 with the -- or what's your current job position?

10 A. I'm the director of chaplaincy with the Tulsa  
11 Police and Fire Department.

12 Q. Do you currently hold any other titles or  
13 positions?

14 A. Pastor of Fisher Baptist Church in Sand Springs.

15 Q. Any another position that you hold currently?

16 A. No.

17 Q. Okay. Other than your -- your work in chaplaincy  
18 and your work as a pastor, is there any other professions  
19 or -- or positions you've held since leaving the seminary?

20 A. No.

21 Q. Do you have any prior experience in agriculture?

22 A. Raised on a farm.

23 Q. What -- what kind of farm?

24 A. Cotton fields.

25 Q. I take it you worked in the fields for a while as



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1 a child?

2 A. More than I care to.

3 Q. And that was in Mississippi; correct?

4 A. Yes.

5 Q. Any other experience with agriculture since then?

6 A. No.

7 Q. And when -- when did you -- when did you stop work  
8 in the fields? When did you move away from home, what age?

9 A. 22.

10 Q. What year would that have been?

11 A. 1970 -- oh, gosh, '75.

12 Q. I'd like to talk a little bit about your  
13 experience as a pilot. When did you receive your -- your  
14 pilot's license?

15 A. I'm not sure. It's probably in that logbook.

16 Q. Let me -- I won't make it an exhibit quite yet,  
17 but let me hand you back the logbook and see if that  
18 refreshes your recollection at all.

19 A. 1996.

20 Q. And what led you to pursue a pilot's license?

21 A. I had a neighbor that was very interested in  
22 flying, but he felt afraid to fly so he asked if I would  
23 learn so I could fly him. So that's how I did it.

24 Q. And describe for me the training you had to  
25 receive your license.

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1           A. Well, you had to pass the written test, the ground  
2           school. You had to learn cross country techniques. You  
3           had to learn steep turns, how to stall the airplane and  
4           recover from the stall. You had to learn to read the  
5           instruments in order to maintain your -- your level flight.  
6           You learned about air speed, landing techniques, take off  
7           techniques and then you were certified by a state examiner.

8           Q. All right. And are there -- are there certain  
9           annual updates you have to do, either in terms of training  
10          or in terms of physical fitness?

11          A. You have to have a medical exam, and I think  
12          that's every two years. You have to update your medical  
13          and then it -- you also have to do a flight with an  
14          instructor to make sure you still know how to fly that  
15          airplane.

16          Q. What's -- what -- what -- what type of license do  
17          you hold?

18          A. It's a private license.

19          Q. Have you ever held a commercial license?

20          A. No.

21          Q. And are you instrument rated, by any chance?

22          A. No.

23          Q. So you -- you fly by visual flight rules, VFR?

24          A. Yes.

25          Q. And explain to me your understanding of what the

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1 difference is between VFR and instrument flight rules, IFR?

2 A. Instrument flight rules are being able to fly that  
3 aircraft totally by the instruments. If you happen to be  
4 within cloud cover or when you can't see, they will take  
5 you on your course until you can get above the clouds and  
6 then you can switch to VFR or you maintain the flight by --  
7 strictly by instruments in the airplane until you get --  
8 approach the airport and can get below the cloud level to  
9 land the aircraft.

10 Q. So as -- as you rated visual flight rules, are  
11 allowed to fly in cloudy weather?

12 A. If I can -- if there -- it can be cloudy, but I  
13 have to be 500 feet below the clouds. I'm not allowed to  
14 fly through the clouds.

15 Q. If it's stormy outside or -- strike that.

16 If it's rainy outside, is that a situation  
17 where you be would allowed to fly under visual fly rules?

18 A. No. No. It would depend on the closeness and  
19 proximity of the clouds to the ground, but if it's raining  
20 they're probably too close to fly.

21 Q. So if I understand correctly under visual flight  
22 rules, you're -- you're sort of dependant upon what you can  
23 see?

24 A. Absolutely.

25 Q. Under visual flight rules, do you communicate with

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1 -- with a tower?

2 A. It depends on the airport, but yes, you do  
3 communicate.

4 Q. Okay. But how -- how are you informed if there's  
5 a plane nearby that you need to watch out for?

6 A. That's from the tower. And there are certain --  
7 when you asked me that, there are certain airports that  
8 have no tower, so you're not required to. If it is a  
9 towered airport, then you are required to communicate with  
10 the tower.

11 Q. In the work we're discussing here, the work you  
12 performed for Lithochimiea, what airport did you fly out  
13 of?

14 A. Riverside Jenks Airport.

15 Q. Riverside?

16 A. Uh-huh. It's in the air flight book as Riverside.

17 Q. And where is that airport located?

18 A. In Jenks.

19 Q. And was this the only airport you flew out of for  
20 the work you did for Lithochimiea?

21 A. Yes.

22 Q. And is this an airport in which you kept in  
23 communication with the tower?

24 A. Yes.

25 Q. Is communication with the tower the only method

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1 that you use to prevent a collision with other aircraft?

2 A. A pilot has to rely on his own site more than  
3 anything else.

4 Q. You'll forgive me for these questions I have.  
5 This is interesting to me. How -- how do you scan the --  
6 the entire field of your vision as you're -- as you're  
7 flying to make sure you're not near another plane?

8 A. You do it in quadrants. You check one quadrant,  
9 then the next, then the next until you've completed your  
10 scan and then you start over.

11 Q. And we'll get into more detail later, but -- but  
12 as you were flying these missions for Lithochimiea, were  
13 you being instructed by anyone to -- to change your course  
14 as you were flying?

15 A. Sure.

16 Q. Okay. And do you communicate those changes then  
17 to the -- to the tower?

18 A. The alter -- the -- if you alter your course  
19 within the range of the tower, their airspace, you do have  
20 to let them know. But if their -- if you're out of their  
21 airspace, there's no need to let them know.

22 Q. And is the -- is your understanding of the  
23 Illinois River Watershed, is that in the airspace for the  
24 Riverside Airport?

25 A. No.

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1 Q. Okay. So when you were flying over the Illinois  
2 River Watershed, would you communicate your -- your changes  
3 in course to the tower?

4 A. No.

5 Q. So as you're flying on these particular missions  
6 in the Watershed and you're changing your course and  
7 you're -- you're -- you're checking your quadrants for --  
8 for other planes, is it fair to say that you were -- you  
9 were occupied flying the plane?

10 A. Yes.

11 Q. And that your -- your primary task wasn't to be  
12 observing what's going on on the ground?

13 A. Yes, that's correct.

14 Q. Okay. Do you -- do you own an airplane?

15 A. Not at this time.

16 Q. Okay. Anytime in the last five years have you  
17 owned an airplane?

18 A. Yes.

19 Q. And what kind of plane was that?

20 A. It was a 1953 Piper Tri-Pacer 135.

21 Q. And when did you -- strike that.

22 Did you sell that airplane?

23 A. Yes.

24 Q. All right. And when did you sell that plane?

25 A. Probably in 2006.

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1 Q. Do you recall using that plane at all for any  
2 assignment --

3 A. No.

4 Q. -- in this matter?

5 A. No.

6 Q. Okay. What -- what plane did you use for the work  
7 you did for Lithochimiea?

8 A. It was a rented aircraft that I rented at  
9 Riverside.

10 Q. And what -- what -- what air -- what type of  
11 aircraft was that?

12 A. A Cessna 172. We rented a Cessna 150 initially  
13 and then went to the 172.

14 Q. And what was the reason for the switch to the 172?

15 A. They wanted to put more people in the aircraft for  
16 observation, I guess.

17 Q. How many people does the Cessna 150 hold?

18 A. Two.

19 Q. And how many people does the Cessna 172 hold?

20 A. Four.

21 Q. And who made that decision to switch the type of  
22 airplane?

23 A. I'm not sure. It must have been someone there at  
24 Lithochimiea.

25 Q. And both of these planes were rented?

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1 A. Yes.

2 Q. Were they rented wet?

3 A. Yes.

4 Q. And by wet, they -- they were pre-fueled?

5 A. Right.

6 Q. On any particular assignment for Lithochimiea, did  
7 you have to refuel the plane before returning it?

8 A. Yes.

9 Q. All right. And was that due to a requirement of  
10 the rental agreement or -- or was that due to the distance  
11 you were flying?

12 A. That was due to the time that I spent in the air.  
13 It's always good to get home.

14 Q. That is true. Were all of your assignments for  
15 Lithochimiea conducted within one day?

16 A. Yes.

17 Q. And how long would you need to be out flying  
18 before you had to refuel?

19 A. The aircraft was good for about four hours, but I  
20 usually refuel in three.

21 Q. And to refuel, you returned to the Riverside  
22 Airport?

23 A. No.

24 Q. Where would you go to refuel?

25 A. Siloam Springs.



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1 Q. On an assignment for Lithochimiea, what is the  
2 longest you were out in the field flying.

3 A. I think six hours would have been the longest  
4 time.

5 Q. Did that require one refueling or two?

6 A. One.

7 Q. And then you returned the plane to the originating  
8 airport?

9 A. Yes.

10 Q. Do you recall what the -- the shortest trip might  
11 have been, in terms of time?

12 A. Probably two-and-a-half hours.

13 Q. Am I correct that the only two types of planes you  
14 flew for your work for Lithochimiea was a Cessna 150 or a  
15 Cessna 172?

16 A. That's correct.

17 Q. Okay. Who paid for the airplane rental?

18 A. Lithochimiea. They reimbursed me. I actually  
19 paid and then they reimbursed me.

20 Q. The 1099 that we discussed earlier, Exhibit 2,  
21 does that compensation include the reimbursement?

22 A. Yes.

23 Q. And on occasion when you -- when you were required  
24 to refuel, did you pay for that originally as well?

25 A. Yes.

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1 Q. And then you were reimbursed for that by  
2 Lithochimiea as well?

3 A. That's correct.

4 Q. All right. Were you also compensated for your  
5 time as well?

6 A. Yes.

7 Q. Besides the work that you performed for  
8 Lithochimiea, did you provide any other work -- any other  
9 in terms of flying or otherwise related to this  
10 investigation in the Watershed?

11 A. No.

12 Q. Did you perform any other work, flying or  
13 otherwise, related to any other aspect of this -- this  
14 case?

15 A. No.

16 Q. Prior to --

17 A. Excuse me. Let me be sure I tell you correctly,  
18 that when you said any other aspect of this case, I'm not  
19 sure what you mean.

20 Q. Let me clarify. Did you fly or perform any other  
21 activity related to the Illinois River Watershed?

22 A. I did fly a group over Lake Tenkiller and I think  
23 they just took pictures of Lake Tenkiller.

24 Q. Do you recall who these individuals were?

25 A. I didn't know them.

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1 Q. Were they involved in this lawsuit?

2 A. Yes.

3 Q. To the best of your knowledge, do you recall their  
4 role in this lawsuit, experts or lawyers?

5 A. They had cameras. That's -- you know, I -- I  
6 assume they were professional photographers. I don't know.

7 Q. Do you recall when this trip occurred?

8 A. I -- I think it's noted in the logbook, but I  
9 don't recall right now.

10 MR. DOLAN: Let's go ahead and make that an  
11 exhibit at this time. I'll ask the court reporter to  
12 mark -- strike that.

13 I'm gonna go off the record. I'm sorry.  
14 This is not just a -- it's not in a very easily usable  
15 format. I want to make sure that we're -- we're clear when  
16 we're talking about it. I want to get it right.

17 THE VIDEOGRAPHER: We're off record at 9:15  
18 a.m.

19 (Break was taken from 9:15 a.m. to 9:23 a.m.)

20 THE VIDEOGRAPHER: We are back on the record  
21 at 9:23 a.m.

22 Q. (BY MR. DOLAN) Reverend Lynchard, before we took  
23 a brief break, we were discussing a trip to the Illinois  
24 Watershed over Lake Tenkiller with a group of persons;  
25 correct?

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1 A. Yes.

2 Q. All right. I'd like to mark for the record  
3 Exhibit 3 and at the same time I'll return to you your  
4 logbook.

5 (Exhibit No. 3 was marked.)

6 Q. I'm handing to you what's been marked as Exhibit  
7 3. Take a brief look through the pages there.

8 A. Okay.

9 Q. Does this appear to be an accurate photocopy of  
10 your pages from your log book?

11 A. Yes.

12 Q. Okay. Could you take a look through this logbook  
13 and -- and -- and see if you can find the entry that  
14 corresponds with the trip to Lake Tenkiller that you just  
15 described?

16 A. May the 14th, 2007.

17 Q. And that entry identifies that you took off from  
18 what airport?

19 A. Riverside.

20 Q. And you returned to that same airport?

21 A. Same airport, uh-huh.

22 Q. And the remarks states that you -- you fly over  
23 Lake Tenkiller. Do you recall any other details of that  
24 trip?

25 A. Other than I had the photographers as I mentioned

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1 before and flew them over Lake Tenkiller.

2 Q. Okay. And under the entry cross country, what  
3 does the 2 and the 1 represent?

4 A. The number of -- let me see. Oh, I'm on the wrong  
5 page here.

6 (Interruption by cell phone ringing.)

7 MR. DOLAN: We can go off the record if you  
8 want to, if you need to deal with that.

9 THE WITNESS: No. I just need to turn it  
10 off.

11 A. Okay. I don't see the cross country -- oh, I see  
12 what you're -- I believe. Yes, the 2 is the hours and the  
13 1 is the point hours, 2.1 hours.

14 Q. (BY MR. DOLAN) And I assume the 2 and the 1 under  
15 day is 2.1 day hours?

16 A. Right. That's correct.

17 Q. And what does pilot in command 2.1 represent?

18 A. That's logging the length of the flight that I was  
19 actually in command of the aircraft.

20 Q. All right. The -- the flight immediately beneath  
21 that dated 5/16, do you recall if that was related to this  
22 lawsuit?

23 A. I -- I don't recall. In fact, it has me -- that  
24 appears that that's Siloam Springs identifier SLG and so  
25 I'm assuming that I had no other reason to go to Siloam

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1       Springs other than this lawsuit and I'm assuming that's  
2       correct.

3           Q.   Do you recall the purpose of that trip?

4           A.   No.

5           Q.   Does anything stand out in your memory about that  
6       trip?

7           A.   No.   It's -- it's -- you know, we flew so many  
8       that I -- I don't know.   I couldn't tell you about that  
9       trip specifically.

10          Q.   Is that the last time you -- you have flown?

11          A.   Probably not.   It's probably the last time I flew  
12       for them, but I'm -- I -- no.   I'm sure that's not the last  
13       time I flew.   That's the last log entry I made.

14          Q.   Do you record records of your flights anywhere  
15       else?

16          A.   No.

17          Q.   Would there be a flight that you took for  
18       Lithochimiea or related to the Watershed in this lawsuit  
19       that would not be in this logbook?

20          A.   It's possible.   I don't think so, but it's  
21       possible.

22          Q.   Would there be a reason why you would not include  
23       a flight in your logbook?

24          A.   Not a good one.   Other than just failure to do it.  
25       Nothing that would make me look good.

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1 Q. We'll return to this exhibit a little later.  
2 Other than the flight you mentioned over Lake Tenkiller  
3 with photographers, were there any other flights that you  
4 took related to this lawsuit that would not have been paid  
5 by Lithochimiea?

6 A. No.

7 Q. When the photographers went with you over Lake  
8 Tenkiller, how were you reimbursed?

9 A. By check.

10 Q. Was that paid by Lithochimiea as well?

11 A. Yes.

12 Q. How do you know Steve Steele?

13 A. At the time, Steve was a major of the detective  
14 division and my office was two down -- two doors down.

15 Q. And do you have a social relationship with former  
16 Major Steele as well?

17 A. No. The reason I paused is there are certain  
18 special banquets and activities that the police department  
19 put together that I have gone and he was there and I  
20 visited with him.

21 Q. Prior to your involvement in this investigation,  
22 did you have any conversations with Major Steele regarding  
23 the investigation?

24 A. Yes.

25 Q. Okay. And what did those conversations consist

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1 of?

2 A. They -- he was asking me would I be willing to fly  
3 some of the guys down there. That was the nature of it.

4 Q. And what was your understanding of the purpose of  
5 these flights?

6 A. They were looking for people who were disposing of  
7 chicken litter. The purpose was to -- to fly over the area  
8 and see if they could find people doing that.

9 Q. Was it your understanding from this original  
10 meeting that part of your role would also be looking for  
11 people disposing of chicken litter?

12 A. No.

13 Q. What did you understand your role to be?

14 A. My role was to fly them where they told me to and  
15 fly the areas that they wanted so that they could look for  
16 them.

17 Q. So you were to fly based upon where they directed  
18 you to fly; correct?

19 A. Yes.

20 Q. You did not have a role to actually identify any  
21 operations on the ground?

22 A. No.

23 Q. And as you engaged in your role as a pilot in this  
24 investigation, is that what occurred?

25 A. Yes. When you say is that what occurred --



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1 Q. Let me rephrase it a little.

2 While you were piloting these missions paid  
3 for by Lithochimiea in the Watershed, did you participate  
4 in all -- in -- in making any observations of -- of  
5 activities going on on the ground?

6 A. While I was with them if they saw it and they had  
7 me circle it, then I did see it. Whatever they were seeing  
8 I was seeing.

9 Q. But you weren't making any independent  
10 observations?

11 A. No.

12 Q. Okay. Was it Steve Steele that first approached  
13 you about this opportunity?

14 A. Yes.

15 Q. And do you recall when that initial conversation  
16 was?

17 A. It had to be somewhere in March of 2007, somewhere  
18 in there, I think.

19 Q. Did he explain to you why he wanted you to  
20 participate in the program, you specifically?

21 A. Did he explain that? No, no, he didn't explain  
22 why me specifically.

23 Q. In that initial conversation, did you discuss the  
24 terms of your compensation?

25 A. I don't think so. I think the initial

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1 conversation was, hey, I love to fly. I like the hours.  
2 If they'll pay for the airplane, I'll go.

3 Q. At that time in 2007, how much did you charge for  
4 your hours?

5 A. I didn't charge. They paid me what they paid me.  
6 I didn't charge.

7 Q. Do you recall what they paid you per -- per hour?

8 A. I don't remember exactly what it was. I'm sorry.  
9 I wish I could because I'd tell you.

10 Q. Did you have a contract with Lithochimiea?

11 A. No.

12 Q. Okay. But am I correct that part of that  
13 compensation was for your time?

14 A. Yes, that's correct.

15 Q. Okay. I assume at that initial conversation you  
16 told Steve Steele that you were interested in this  
17 opportunity?

18 A. Yes.

19 Q. What happened next?

20 A. I believe that there was a lady that worked with  
21 Lithochimiea and they asked if I would like to fly her over  
22 the Watershed so she could make observations and that's  
23 when we rented the 150.

24 Q. And that was your first --

25 A. Yes.

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1 Q. -- flight? Could you -- could you take a look at  
2 Exhibit 3 and identify for me what -- what -- where that  
3 particular trip is located.

4 A. March 13th. I don't know what page that is.

5 Q. Would that be March 13th, 2006?

6 A. That's right. 2006, that's correct. Well, I got  
7 the month right.

8 Q. Can you read the -- the remarks in there for me.

9 A. Gosh. I'm sorry. It would be the -- the March  
10 14th. It just says not -- not the 13th, March 14th. The  
11 13th was where I was checked out and I did the slow stalls  
12 and slow flight, stalls and that type of thing. The 14th  
13 was the next day that we went to Siloam Springs and that  
14 small writing is the slow stalls and the thing that -- I  
15 took an instructor up to -- to make sure I could fly that  
16 airplane.

17 Q. And was the reason you took an instructor up to --  
18 to -- to be in a position to go up on the 14th?

19 A. Yes and no. I had sold my aircraft and in order  
20 to fly there at Riverside, I had to be checked out in the  
21 airplane they were renting me and so that's what that was  
22 for. It wasn't just for that, but that probably was the  
23 initiator for that. I probably wouldn't have done it on  
24 that date had it not been for the flight the next day.

25 Q. And had you flown a Cessna 150 before?

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1 A. Yes. That was my trainer plane.

2 Q. Let's look at the entry for 3/14.

3 A. Okay.

4 Q. Ask you some questions to help me understand some  
5 of the terminology here. What is the entry -- there's an  
6 N-O-L-D-G and there's a 1 for that particular entry.  
7 What -- what does that represent?

8 A. Where is -- I don't see that.

9 Q. If you look on the first page, the last column,  
10 there's an N-O and then L-D-G, sort of halfway down there.  
11 I'm gonna identify it for you.

12 A. Oh, the number of landings, yes.

13 Q. So would this entry identify that you've had one  
14 landing in total?

15 A. Yes.

16 Q. And that would have been at the end of your trip;  
17 correct?

18 A. Yes.

19 Q. And do you recall what the purpose of this trip  
20 was?

21 A. It was just to -- to fly over and let her look at  
22 the Watershed, whatever she was looking for. And if I  
23 remember right, I believe she was looking for trucks  
24 disposing litter, but I -- I -- and I'm pretty sure that's  
25 what it was for.

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1 Q. Do you recall her name?

2 A. No. She only went with me once and I don't recall  
3 her name.

4 Q. Do you recall her role in this -- this matter?

5 A. Other than just being an employee with  
6 Lithochimiea, that's all I know.

7 Q. Did she make any observations to you that you  
8 recall?

9 A. No.

10 Q. Other than this woman who flew with you on 3/14,  
11 do you recall any other conversations with employees of  
12 Lithochimiea?

13 A. I remember going into the office and meeting some  
14 of them as far as -- but I don't even remember their names.  
15 I just didn't spend time over there.

16 Q. Was that the only occasion?

17 A. As far as I can recollect, it is just going in and  
18 I went with Major Steele and he was picking up some sort of  
19 information. And they came by the office and said Danny  
20 come around, let's meet the guys. And -- so I went with  
21 him down there and I shook a few hands and we came back.

22 Q. Did you discuss anything regarding the  
23 investigation or your work during that -- during that  
24 meeting?

25 A. I think they showed me a map of the Watershed and

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1       that's all I remember.

2               Q. Do you recall when that meeting took place?

3               A. No. I can -- it -- it was probably two months  
4 after I started.

5               Q. And approximately how many trips had you  
6 already -- at that point had you already made to the  
7 watershed?

8               A. Probably four. That's a guess.

9               Q. Are you familiar with Steele Investigations and  
10 Research, LLC?

11              A. I know that he has a company called Steele  
12 Investigations.

13              Q. Have you done any other work for Steele  
14 Investigations?

15              A. No.

16              Q. Have you ever flown commercially for any other  
17 group --

18              A. No.

19              Q. -- company or individual?

20              A. No.

21              Q. So this is the only time when you've been paid for  
22 your -- your -- your --

23              A. Yes.

24              Q. -- for your piloting?

25              A. Yes. I'm sorry. Not -- I'm not waiting for you

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1 to get through.

2 Q. That's okay. Do you recall meeting a Dr. Bert  
3 Fisher?

4 A. Yes.

5 Q. And how -- how -- how do you know Dr. Bert Fisher?

6 A. The day that I went over to meet everyone, I  
7 knew -- knew him there. And I actually flew -- he actually  
8 flew with me. And, you know, I can't remember exactly why  
9 or if it would -- I'm sure it was just to look at the  
10 Watershed. Because other than the time with Tenkiller,  
11 that's what they did.

12 Q. Was it just one time that you recall Dr. Fisher  
13 flying with you?

14 A. That's all I recollect.

15 Q. And other than that time flying with you and the  
16 meeting at the Lithochimiea office, is there any other time  
17 that you met with Dr. Fisher?

18 A. No. There was a phone conversation that I had  
19 with him about flying for someone else.

20 Q. Any other times?

21 A. No. That's all I can recall.

22 Q. This phone conversation about flying for someone  
23 else, was that someone else related to this matter?

24 A. No.

25 Q. Okay. Who was that someone else?

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1 A. I don't remember. I -- I -- I said no.

2 Q. Okay.

3 A. So I don't remember.

4 Q. And why -- why did you say no?

5 A. I wasn't interested. It seemed like it was -- I  
6 had to fly somewhere close to the Texas border and pick him  
7 up and fly his -- and I just wasn't interested in doing  
8 that.

9 Q. Did you ever receive any documents from  
10 Dr. Fisher?

11 A. No.

12 Q. Did you ever provide any documents to Dr. Fisher?

13 A. No.

14 Q. Did you ever have a chance to review any report or  
15 draft reports drafted by Dr. Fisher?

16 A. No.

17 Q. I'd ask you to look at Exhibit 3 one more time.  
18 If you could identify for me, if you can, the trip where  
19 Dr. Fisher accompanied you to the Watershed.

20 A. Oh, gosh, there's no way I could tell you that.

21 Q. Have you ever had any communication with anyone  
22 from the Attorney General's office regarding this --

23 A. No.

24 Q. -- Investigation?

25 Have you ever talked with -- strike that.



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1                   Besides your meeting last week regarding this  
2 deposition, had you ever talked to Richard Garren before?

3           A. No, not to my knowledge.

4           Q. Have you ever met with or talked to a lawyer by  
5 the name of Louis Bullock?

6           A. No.

7           Q. Are you aware of any other flights you piloted  
8 where other experts for the State were present?

9           A. No.

10          Q. Have you had an opportunity to meet or discuss  
11 with any experts for the State other than Dr. Fisher, that  
12 you're aware of?

13          A. No.

14          Q. If my recollection is correct, we talked about  
15 three flights you've taken to the watershed, the first,  
16 your initial flight with a woman passenger from  
17 Lithochimiea to -- to -- to take a look at the Watershed, a  
18 flight with Dr. Fisher and a flight with photographers,  
19 which was your last entry that you recall on this project;  
20 is that correct?

21          A. Yes.

22          Q. Okay. As to your other flights, what -- what was  
23 the purpose of other flights you might have taken?

24          A. I took some of their investigators to view the  
25 Watershed to search for whatever activity they thought was

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1 important.

2 Q. And do you recall generally how many times you  
3 performed that function?

4 A. It was -- no, I can't give you an answer. It's as  
5 much as I can I've recorded them, but --

6 Q. Do you recall any other trips to the Watershed  
7 besides the three we've mentioned and the trips with the  
8 investigators?

9 A. No.

10 Q. Okay. When Dr. Fisher accompanied you on the  
11 flight, were there investigators present as well?

12 A. There were two other people, but I'm not sure what  
13 their role was. I -- I don't know -- at that time for that  
14 particular trip, he was simply pointing out different areas  
15 in the Watershed. It really wasn't an investigation for  
16 activity.

17 Q. Let's return to Exhibit 3. Maybe now is a good  
18 time to just go through these. Let's turn to your entry  
19 for 3/14/2006.

20 A. Okay.

21 Q. The next entry down 3/16 of 2006. Was this  
22 related to your employment by Lithochimiea?

23 A. Yes.

24 Q. Okay. And do you recall what the purpose of this  
25 trip was?

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1           A. I took some of their investigators to investigate  
2 activity in the Watershed.

3           Q. And this is the first time you took investigators  
4 with you to the Watershed?

5           A. Yes.

6           Q. And I see here that you made three landings in a  
7 course of a total 4.2 hour-flight. Do you recall the  
8 reason why you made the three landings?

9           A. I had been in the air for approximately three  
10 hours and I stopped for fuel.

11          Q. It seems to me that that would -- that would be  
12 two landings, one stop for fuel and one at the end of the  
13 trip. Do you recall why you might have had a third  
14 landing?

15          A. Yes, because I met the investigators in Siloam  
16 Springs.

17          Q. And was that the usual practice?

18          A. Yes.

19          Q. The next entry down 3/31/2006.

20          A. Okay.

21          Q. Was that related to this investigation?

22          A. Yes. That was to be checked out in the 172.

23          Q. Did you take with you anyone that was involved in  
24 this investigation on this trip?

25          A. No.

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1 Q. Okay. There's a blank space after that entry. Is  
2 there any reason for that blank space?

3 A. No.

4 Q. The last entry on that page, 4/13/2006, is that  
5 trip related to this investigation?

6 A. Yes.

7 Q. Okay. And do you recall the purpose of that trip?

8 A. To pick up investigators and fly them over the  
9 Watershed.

10 Q. Let's turn the page. The entry on 4/20/2006.

11 A. Uh-huh.

12 Q. Was that related to the work you did for  
13 Lithochimiea?

14 A. Yes.

15 Q. Okay. And do you remember -- recall the purpose  
16 of that trip?

17 A. To fly investigators to see the Watershed.

18 Q. The next entry down, can you read the date on  
19 that?

20 A. It looks like 5/10 was what it's supposed to be.

21 Q. Okay. And was that trip related to this  
22 investigation?

23 A. Yes.

24 Q. And do you recall the purpose of that trip?

25 A. No. Other than for the same purpose.

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1 Q. Here it -- it shows one landing. That's different  
2 than some of the others we've seen with -- with three. Do  
3 you recall why that may have been different?

4 A. I believe it was to -- Steele wanted to see what  
5 activity was there and then he would take that information  
6 to his on-ground investigators for the next day. I'm  
7 not -- or either, you know, he gathered information and  
8 then he took it to his investigators.

9 Q. Was that different than the -- the activities on  
10 the other days that you had taken Steve Steele or other  
11 investigators up?

12 A. I don't think it was any different. I think  
13 gathering the same information, but -- but he was waiting  
14 on the ground for the investigators to know where to go.

15 Q. How about the next entry, 5/17, was that related  
16 to this investigation?

17 A. Yes.

18 Q. And do you recall the purpose of that trip?

19 A. For them to observe activity in the Watershed.

20 Q. And do you know why you would have put the word  
21 Tenkiller on there?

22 A. I -- I'm sure we went over Lake Tenkiller during  
23 that time.

24 Q. The entry below that for 6/21, was that entry  
25 related to your work for Lithochimiea?

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1 A. Yes.

2 Q. And was that also to take up investigators?

3 A. Yes.

4 Q. And the entry below that on 7/1, was that also  
5 related to a trip --

6 A. Yes.

7 Q. -- for Lithochimiea? And did you take  
8 investigators up on that trip?

9 A. As -- as much as I can remember, yes.

10 Q. So all the previous entries we've discussed have  
11 been for the year 2006; correct?

12 A. That's correct.

13 Q. Do you know why you might not have a 1099 for  
14 2006?

15 A. I -- I don't know. I looked to see and I just  
16 didn't have one and I don't know why.

17 Q. The first entry here in 2007 is dated 4/2/2007.  
18 Do you recall if this trip was related to your work in the  
19 investigation?

20 A. It was not.

21 Q. Okay. Do you recall the purpose of that trip?

22 A. I just hadn't been up in awhile and I needed to do  
23 some takeoff and landings to be current.

24 Q. Fair enough. The trip underneath that at 4/5, do  
25 you know if that was related to this?

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1 A. It was.

2 Q. All right. And do you recall the purpose of  
3 that -- of that trip?

4 A. The same thing, investigators.

5 Q. Is it fair to assume that your trip on 4/2 to  
6 refresh your flying skills was because you were preparing  
7 to do more work for Lithochimiea?

8 A. I would make that assumption and I'm the pilot.

9 Q. The entry below that on 4/6/2007, is that also  
10 related to your work for Lithochimiea?

11 A. Yes.

12 Q. Was the purpose of that to take up investigators?

13 A. Correct.

14 Q. And entry below that 4/11/2007, was that also  
15 related to your work with Lithochimiea?

16 A. Yes.

17 Q. And was that also to take up investigators?

18 A. Yes.

19 Q. And the entry there, it says Peterson Farms  
20 Airport. Do you recall why you wrote Peterson Farms  
21 Airport?

22 A. Yes. And I wish I hadn't done it. The wind was  
23 in such a manner that -- that it would have been a cross  
24 wind landing at Siloam Springs and I found this one as a  
25 public airport. And I thought the runway was positioned in

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1 a direction that would be easier to land and so that's  
2 why I picked that. I didn't know it was Peterson Farms  
3 until I landed there.

4 Q. So you landed physically on Peterson Farms'  
5 property?

6 A. No. That's -- it's listed as a public airport,  
7 but I found out from the guy that was there at the airport  
8 that only Peterson Farms uses it.

9 Q. On that particular trip, is that where you landed  
10 for the day?

11 A. That's where I picked up investigators and then  
12 dropped them off.

13 Q. Okay. So as a public airport, did the  
14 investigators have to cross Peterson property to get there?

15 A. I have no idea. I -- I wouldn't think to get to a  
16 public airport you would have to do that. I don't know. I  
17 just -- I landed there and they showed up. They were there  
18 and they got in the airplane and we left.

19 Q. The entry below that --

20 A. Uh-huh.

21 Q. -- 4/19/2007 --

22 A. Uh-huh.

23 Q. -- was that related to this investigation?

24 A. Yes.

25 Q. And was the purpose of that trip to take up



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1 investigators?

2 A. Yes.

3 Q. On the next page on 4/27/2007, was this trip  
4 related to your work for Lithochimiea?

5 A. Yes.

6 Q. And was this trip also to take up investigators?

7 A. Yes.

8 Q. And what's the significance of the names Rod  
9 Hummel and Mike Nance in that entry?

10 A. They're police officers with Tulsa. And I just --  
11 I don't think I had ever taken Rod Hummel up or Mike Nance  
12 up. And I think I just made a note to myself that that was  
13 the first time I took them up. I'm not sure, but that's  
14 why I made just a note to myself who I took up that day.

15 Q. Do you know the reasons why those two officers  
16 accompanied you that day?

17 A. They were the investigators. That's why they were  
18 with me.

19 Q. On previous trips with the investigators, was it  
20 always the same person or persons or were there different  
21 individuals?

22 A. No.

23 Q. Do you recall the names of the individuals that --  
24 that -- you don't need an associate to put a day on unless  
25 you can.

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1           A. Right. Yes, some of them. Some of them I didn't  
2 know. Those that worked with the police department, I was  
3 well acquainted with. Steve Steele, Gary Stansill, Mike  
4 Nance, Rod Hummel, Tim Jones and I think that's it. There  
5 were other officers that worked, but I don't think I took  
6 them up. Shane Tuell, for instance, was an officer, but I  
7 don't think I took Shane up. That's who I can remember.

8           Q. Were there nonpolice officers that would accompany  
9 you as well?

10          A. Yes. Not all the time, but some of the time there  
11 would be employees of Lithochimiea that would.

12          Q. Do you recall who those employees would be?

13          A. One was the lady that I told you about. And the  
14 other one -- there was a female and a male photographers  
15 and I don't remember their names. And then there was an  
16 older gentleman that I took up that I can't remember his  
17 name, either. I'm sorry.

18          Q. And on one of these trips, would -- would that  
19 have been the trip that Dr. Fisher went on as well?

20          A. Yes, some of them would be.

21          Q. Okay.

22          A. And he brought two people with him and I don't  
23 remember who they were.

24          Q. Now, was that independent trips separate than the  
25 investigators or was that with the investigators as well?

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1 A. It was independent from the investigators.

2 Q. All right. And can you -- you have no  
3 recollection of which one of these trips that was?

4 A. No. I do remember it was flying over Lake  
5 Tenkiller, so it was one of those trips.

6 Q. Referring back to the 5/17/2006 entry --

7 A. Okay.

8 Q. Okay. Is it possible that that was that  
9 particular trip?

10 A. No, because it would not have been that many  
11 hours.

12 Q. Now it says in the note six hours total?

13 A. Yeah, that's why I'm -- I'm confused about that  
14 myself. I don't know why I put that down. That's what I  
15 say. So let me back up. That could be the time because  
16 it's 3.2 hours. I was looking at the 6 hours, so that  
17 could be the time. But I'm -- I'm -- I'm not sure.

18 Q. So I'd asked you previously whether other  
19 individuals, nonpolice officers accompanied the  
20 investigators and you had stated that occurred on some  
21 occasions; correct?

22 A. If that's right, I misunderstood the question.  
23 When I took the investigators up, to my knowledge, they  
24 were all police officers. I don't know of taking any  
25 investigators up that were not police officers. There were

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1 people that I took up who examined the Watershed, took some  
2 photographs, who I -- were employees of Lithochimiea, but I  
3 didn't relate them as investigators. I suppose they could  
4 have been, but it -- it wasn't the same activity.

5 Q. But those are separate trips; correct?

6 A. Right, that's correct.

7 Q. Do you recall ever bringing up to the Watershed up  
8 in your plane a gentleman by the name of Jim Sharp?

9 A. I don't recall that. I mean, I don't recall his  
10 name at all.

11 Q. Okay. And then the -- the entry on 5/14/2007,  
12 that's the entry we discussed before where you took  
13 photographers up with you; correct?

14 A. Yes.

15 Q. All right. And you're uncertain about the entry  
16 for 5/16; is that correct?

17 A. It -- it had to be part of the investigation  
18 because it was -- that's -- SLG is Siloam Springs.

19 Q. Do you recall the purpose of that particular trip?

20 A. Specifically, no.

21 (Interruption by knock at door.)

22 Q. (BY MR. DOLAN) Let's talk for a second about the  
23 trip with Dr. Fisher --

24 A. Uh-huh.

25 Q. -- and the individuals that accompanied him. Do

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1       you recall anything about what -- what -- what was talked  
2       about during that trip?

3             A. He was -- between my conversation or listening in  
4       to their conversation?

5             Q. Both.

6             A. I really didn't have a conversation. They were  
7       discussing among themselves the Watershed and the problems  
8       that they saw.

9             Q. Do you remember the details of that conversation?

10            A. I remember them talking about the change in the  
11       color of the water and depicting the flow in the Watershed  
12       or talking about the flow.

13            Q. Did you share with them any observations that you  
14       made regarding that or any opinions you had on that topic?

15            A. No.

16            Q. Did they ask you for your observations or thoughts  
17       on the topic?

18            A. No. They were way over my head.

19            Q. Anything else that you remember about their  
20       conversation?

21            A. Other than the flow of the water, the color of the  
22       water, no, I guess not. I was -- I was gonna say maybe  
23       they pointed out some areas of -- of litter where it was  
24       distributed.

25            Q. Let's talk about the -- the first trip you took up

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1 with the woman from Lithochimiea. Did she -- did she talk  
2 at all about what she was observing or taking note of?

3 A. She was looking for what she called -- referred to  
4 as hot spots in the field.

5 Q. And what are you -- what's your understanding of  
6 what hot spots are?

7 A. Where the grass was a lot darker green than other  
8 areas was one of the ways she described it.

9 Q. And did you make any observations regarding that  
10 as well?

11 A. I looked at areas that she said this was -- this  
12 is one and the grass was darker green there than anywhere  
13 else, but --

14 Q. And to the extent that you observed that, it was  
15 because you were directed by this individual?

16 A. Right, that's correct.

17 Q. And do you have any opinions or theories as to the  
18 reason why a certain spot might have been greener?

19 A. None other than what they would tell me.

20 Q. Okay. When you took the photographers up, do you  
21 recall any -- any conversations or any statements the  
22 photographers made?

23 A. They talked about the color of certain cow ponds  
24 and photographed those, I believe.

25 Q. Were they photographing anything else other than

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1 cow ponds?

2 A. They photographed the Illinois. They photographed  
3 tributaries into the Illinois.

4 Q. Anything else that you can recall?

5 A. No, not that I can recall.

6 MR. DOLAN: Why don't we go off the record  
7 right now. We need to change the tape and let's go over my  
8 notes.

9 THE VIDEOGRAPHER: We're off the record at  
10 10:08 a.m.

11 (Break was taken from 10:08 a.m. to 10:15 a.m.)

12 THE VIDEOGRAPHER: This is the beginning of  
13 Tape No. 2. We're back on the record at 10:15 a.m.

14 Q. (BY MR. DOLAN) Reverend Lynchard, I'd like to  
15 focus our attention on the trips where you piloted the  
16 investigators, Steve Steele and others as part of this  
17 investigation. What was your understanding of the purpose  
18 of those trips?

19 A. With the investigators?

20 Q. Correct.

21 A. Well, the -- the main purpose was to locate people  
22 in the distribution of chicken litter on farm land in the  
23 Watershed.

24 Q. And when you were in the air, how did -- how did  
25 the investigators go about that?

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1           A. There were times they had me fly criss-cross  
2 patterns across the Watershed until they observed a truck  
3 distributing what they thought was chicken litter.

4           Q. And when you weren't flying a criss-cross pattern,  
5 how else would they identify what they wanted to observe?

6           A. They had GPS coordinates that they would give me  
7 to fly over an area.

8           Q. And how would you fly over a particular GPS  
9 coordinate?

10          A. I had a GPS in the airplane. In fact, I had two.  
11 And we'd enter those coordinates and fly the aircraft until  
12 we arrived.

13          Q. And once you arrived at a particular coordinate,  
14 how would you -- how would the investigators make an  
15 observation?

16          A. They would have me circle the area and if they saw  
17 something, they would have me circle that specific object  
18 they were watching.

19          Q. As a general rule, how long would you -- you  
20 circle a particular location?

21          A. Gosh, that's hard to -- you know, timing, I don't  
22 know. Probably -- if they saw something, probably 10 or 15  
23 minutes.

24          Q. And what altitude were you generally flying?

25          A. It would probably be better for me to tell you how



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1 far above the ground. Usually it's around 2500 feet, but  
2 it would determine the terrain. If the terrain were  
3 higher, then you would fly higher than 2500 feet, but I  
4 would probably be around 1500 to 2000 feet from the ground  
5 up.

6 Q. And what speed were you -- you flying at?

7 A. It would vary. It was slow flight, probably 70  
8 knots, 65 knots, 70 knots.

9 Q. And you said it would vary. Can you give me a  
10 range?

11 A. Between 65 and 80 knots.

12 Q. And what factors would determine your speed?

13 A. Nothing in particular, other than their ability to  
14 take the photographs that they wanted to take. The other  
15 factor would be the number of people in the aircraft. The  
16 more people we have, the higher air speed you need to  
17 maintain.

18 Q. You stated earlier that at a certain point  
19 Lithochimiea wanted you to switch from two-person to a  
20 four-person plane; correct?

21 A. Correct.

22 Q. And do you recall the reason why that was?

23 A. It was early on, the lady that I took the very  
24 first time complained that the small plane was just too  
25 crowded and it -- it didn't allow enough room to move

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1 around and look and take pictures and that type of thing.

2 Q. When you took up investigators, how many  
3 investigators typically went with you?

4 A. Typically two.

5 Q. Two. All right. Were there ever occasions where  
6 there were more than two?

7 A. There were -- and I can't remember how many --  
8 very few. There were three. There -- there were sometimes  
9 three.

10 Q. Did Steve Steele usually go up with you on these  
11 trips?

12 A. No. He went up probably as much as any of the  
13 rest of them.

14 Q. And what were the -- what were the  
15 responsibilities of the investigators who were with you?

16 A. They had one -- now, I'm -- I'm just telling you  
17 my observation. They didn't discuss with me what their --  
18 what their jobs were.

19 Q. Sure.

20 A. It appeared both of them, of course, would be  
21 looking, but one would take notes and write down waypoints  
22 and one would take photographs.

23 Q. Would they ever communicate with the ground?

24 A. Initially they did.

25 Q. And what was the purpose of that communication?

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1           A. They had crews on the ground that would go to the  
2 location description and film that distribution.

3           Q. And when you say distribution location, what do  
4 you mean by that?

5           A. They would look for trucks distributing chicken  
6 litter. They would contact the ground crew and have them  
7 go to those -- to that location and photograph or film the  
8 trucks making that distribution.

9           Q. Do you know why they would send a ground team  
10 rather than just rely on the images from the airplane?

11          A. This is a guess. Using motion picture from an  
12 airplane because it of its banks and turns and dips with  
13 the wind currents, you don't get a good video and it  
14 usually makes the photographer sick. So they put him on  
15 the ground.

16          Q. Were the investigators on the plane taking still  
17 photos and videos?

18          A. No. Still photos. There was a time when there  
19 was video and that's when they realized it's hard to look  
20 through a lens and not get nauseous.

21          Q. So they started with video; is that correct?

22          A. Yes.

23          Q. And then decided that still photos was more --

24          A. Right.

25          Q. -- appropriate?

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1 A. Correct.

2 Q. From your experience flying -- flying planes, do  
3 you think an observation on the ground is gonna be more  
4 accurate than one from 1500 to 2000 feet?

5 A. I -- I don't know. The one on the ground couldn't  
6 take in the scope of the one in the air, as far as -- as  
7 the scope of the view.

8 Q. But as to detail, what's actually going on, do you  
9 think the individual that's closer on the ground has a  
10 better vantage point versus someone 1500, 2000 feet in the  
11 air?

12 A. I -- I don't know because I don't know how close  
13 they were -- they did all their photography from public  
14 roads from what I could see. So I don't know -- I've  
15 never -- I've never seen anything that they took from the  
16 ground, so I don't know. I mean, my guess would be as good  
17 as yours at that point.

18 Q. But as to detail -- let me ask it this way. From  
19 1500 to 2000 feet in the air, were you able to read license  
20 plate numbers?

21 A. Oh, no. No.

22 Q. Would you be able to -- to read identifying marks  
23 on a site?

24 A. Now, I don't know what they'd be able to see  
25 through a camera lens with whether they had zoom or

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1           whatever, but no, with your eye you couldn't read it, a car  
2           tag, no.

3           Q.   With your eyes would you be able to read detail on  
4           the side of a vehicle?

5           A.   Possibly, from that altitude, yes, you could, if  
6           it were written large enough.

7           Q.   Fair enough.   So in the exhibit that we went  
8           through, your flight log, and I counted 12 to 13 times when  
9           you took investigators up.   Does that sound about right?

10          A.   That would be very close because I don't think  
11          I -- if I forgot some, it wouldn't be many at all.

12          Q.   But it is possible that maybe --

13          A.   There may be one or two.

14          Q.   -- but not --

15          A.   But other than that, that's right.

16          Q.   And how would you be informed that your -- your  
17          services were required to take -- to take a team up?

18          A.   Major Steele just down the hallway would say, can  
19          you fly tomorrow?   That's how it would be.

20          Q.   And it was only Major Steele that would contact  
21          you --

22          A.   Yes.

23          Q.   -- about your availability to fly?

24          A.   Right.

25          Q.   You had mentioned earlier that the investigators

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1 would be looking for observations to make on the ground.

2 Do you recall what sorts of things they were looking for?

3 A. They looked for a variety of things. They looked  
4 at what they thought was stockpiles of chicken manure.  
5 They looked for trucks that they felt were distributing  
6 chicken manure and where those trucks originated and where  
7 they returned. That's what they looked for.

8 Q. And did you make any observations as to these  
9 things, as you were --

10 A. As they -- as they pointed them out, I -- I made  
11 observations of what they told me were trucks distributing  
12 chicken litter and what they told me were piles of -- of  
13 chicken litter.

14 Q. Did you ever document any of your observations?

15 A. No.

16 Q. And would you agree with me that it was the  
17 responsibility of the investigators to document anything  
18 that they observed?

19 A. Yes, to some degree.

20 Q. And it was your responsibility just to fly the  
21 plane?

22 A. Just to make sure they didn't get to the ground  
23 too soon.

24 Q. Anything else you can recall that -- that -- that  
25 they observed?

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1           A. The color of the grass, the dark green of the  
2 grass.

3           Q. Anything else that you can recollect?

4           A. They were looking at one time for how they  
5 disposed of chickens. But I don't remember whether they  
6 actually found that or not.

7           Q. Do you recall any time where you were attempting  
8 to go to a particular location?

9           A. Attempting to go to a particular location? I  
10 mean, that's -- I did that a lot. They had coordinates and  
11 that would be a particular location, but -- so I'm not  
12 sure.

13          Q. That was my question.

14          A. Okay.

15          Q. You had mentioned earlier that you did a zig-zag  
16 pattern --

17          A. Right. Right.

18          Q. -- where you would just identify stuff. But there  
19 were times when you were actually attempting to go to a  
20 particular coordinate; right?

21          A. That's correct.

22          Q. All right. Do you recall if any -- any grower  
23 names or company names associated with any of those  
24 particular locations?

25          A. No. They had -- I'm sure they mentioned them, but

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1 I don't remember -- recall who they were. You know, I  
2 always know the Tyson Towers. You know, they were kind of  
3 a landmark there. But other than that, that's all that I  
4 remember.

5 Q. Did you ever attend any meetings with the  
6 investigators to discuss the assignment?

7 A. No.

8 Q. So on these trips with the investigators, other  
9 than flying the plane, were there any other tasks that you  
10 had to perform or that you did perform?

11 A. No.

12 Q. And you -- you flew in good weather, I take it?

13 A. Yes. VFR weather. It wasn't sunshine all the  
14 time, but VFR weather.

15 Q. And just define VFR weather for me.

16 A. It's where you are able to have 1000 foot  
17 clearance above the ground, 500 feet below the clouds,  
18 unless you're over a populated area and then it's 1500 feet  
19 above the ground and 500 below the clouds.

20 Q. And if it was raining, these conditions weren't --

21 A. I never flew there in the rain.

22 Q. Okay. You mentioned earlier that when you started  
23 flying investigators, they -- they would attempt to  
24 communicate with the ground. Why did that stop?

25 A. I think the radios that they had, at times they



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1        couldn't contact them when they wanted to and it was a  
2        problem with distance and not being able to -- to  
3        communicate as effectively as they wanted to.

4            Q.    So when the investigators stopped using radios,  
5        how did the operations change for the investigators?

6            A.    I don't -- you know, I don't -- I don't know. It  
7        seems to me we did the same thing. Now, as far as what  
8        they did, the different type of notes they would take, I  
9        knew that became more extensive. But other than that --  
10       and photographs, I know they used cell phones to  
11       communicate at some time.

12           Q.    Did you review the notes that the investigators  
13        wrote down?

14           A.    No.

15           Q.    Were you asked for your comments or opinions to  
16        add to those notes?

17           A.    No.

18           Q.    You said that they -- they took notes and they  
19        took still photos and at the beginning they took video. Is  
20        there any other way that you observed the investigators  
21        document what they saw?

22           A.    Well, I mentioned they took notes, they marked GPS  
23        waypoints from the air. They had photos, they had video  
24        and that's all I remember.

25           Q.    Did you take any of your own photos or videos?

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1 A. No.

2 Q. Do you know how many hours you worked total in  
3 relationship to this investigation?

4 A. All I would do is go to that logbook and add it up  
5 and that would be as close as I could come.

6 Q. Were you reimbursed solely for your hours in the  
7 air or were you reimbursed for prep time, travel time or  
8 any other time?

9 A. I was reimbursed for the time I -- if I had to  
10 land in Siloam Springs and I had to wait, I was -- I was  
11 given money for that time, for wait time and fuel time. So  
12 it wasn't total in the air, no.

13 Q. And how did you get your hours worked information  
14 to Lithochimiea?

15 A. I called Steve Steele or walked down to his office  
16 and said, hey, we were up four hours.

17 Q. And then you would get a check in the future?

18 A. Uh-huh.

19 Q. Did you ever discuss the work that you performed  
20 for Lithochimiea with -- with any other people --  
21 individuals?

22 A. My wife.

23 Q. Did you ever discuss with any other investigators  
24 who weren't involved in the investigation?

25 A. No.

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1 Q. Would you agree that your -- your job as part of  
2 this investigation, was not to make substantive  
3 observations of the Watershed?

4 A. Yes, I would agree.

5 Q. And I'm sure you had enough to do flying the  
6 plane.

7 A. I did.

8 Q. And to the extent any observations were made of  
9 the ground, they were made by Steve Steele and the other  
10 investigators?

11 A. Yes.

12 Q. And you didn't draft any observation on paper?

13 A. None.

14 Q. And were you ever in the position to be able to  
15 identify from the air a particular landowner or particular  
16 poultry grower or any names of individuals or companies?

17 A. The only one that I could identify is what I told  
18 you before is Peterson Farms when I landed there at that --  
19 at his airport. And I say his airport, it's a public  
20 airport, but -- and that's the only one I would know. And  
21 I -- I don't know names. I'm sorry. There were chicken  
22 farms that I knew there was a chicken farm just north of  
23 the Siloam Springs Airport and there were, you know, I  
24 could tell you where they were, but I couldn't tell you  
25 whose they were.

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1 Q. And do you recall any particular observations made  
2 by the growers connected to Cargill Turkey Production, LLC?

3 A. No.

4 MR. DOLAN: I'm just gonna review my notes  
5 for a moment.

6 THE WITNESS: Okay.

7 MR. DOLAN: I will pass the witness.

8 MS. LLOYD: Can I get that microphone from  
9 you?

10 EXAMINATION

11 BY MS. LLOYD:

12 Q. I just have a few questions.

13 Do you know the boundary of the Illinois  
14 River Watershed?

15 A. No.

16 Q. Do you know if the investigators made observations  
17 outside of the Illinois River Watershed while you were  
18 flying?

19 A. I -- they would tell me that we're outside of the  
20 Illinois Riverbed -- Watershed and to turn back. But as  
21 far as observations outside of it, I don't remember because  
22 they -- they would tell me when -- as soon as I got out, we  
23 would to turn back.

24 Q. Okay. You mentioned that when you flew with the  
25 woman from Lithochimiea looking, she was looking for hot

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1 spots, did she tell you what caused those hot spots -- what  
2 in her opinion caused them?

3 A. In her opinion was the high distribution of  
4 chicken litter.

5 Q. And she said that high distribution would cause  
6 the grass to turn dark green; is that correct?

7 A. Yes.

8 Q. You mentioned that photographs of cow ponds were  
9 taken. Did you ever see cows in the water?

10 A. I don't remember.

11 Q. You mentioned that the investigators were looking  
12 for what they thought was chicken litter being distributed.  
13 Did you ever land so that tests could be taken?

14 A. No.

15 Q. Did you yourself ever -- ever take any tests to  
16 determine whether what you were observing -- or what the  
17 investigators were observing was chicken litter?

18 A. No.

19 Q. Did you ever see the investigators take tests to  
20 determine --

21 A. No.

22 Q. -- that what they were observing was chicken  
23 litter?

24 A. No.

25 Q. When you landed at the airport identified with

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1 Peterson Farms, did you come across anyone associated with  
2 the Peterson Farms, other than airport employees?

3 A. No.

4 Q. If we can go back to Exhibit 3. And if you could  
5 just take a look at March 16th of 2006, which I believe  
6 is on Page 3 of the exhibit, the third page of the exhibit.

7 A. Okay.

8 Q. You had said that this -- this trip on March 16th  
9 involved taking investigators up. That was a Cessna 150  
10 you flew in; right?

11 A. That's correct.

12 Q. I understood you to say that it only held two  
13 people.

14 A. It does. That's all.

15 Q. So that would be you and one investigator?

16 A. That's correct.

17 Q. Do you know who that was that you flew with on  
18 that trip?

19 A. I believe it was Major Steele.

20 Q. You stated in your training with the Tulsa Police  
21 Department that you've had some crime scene protection  
22 training. During your work with Lithochimiea, did you  
23 implement any crime scene protection procedures?

24 A. No.

25 Q. Is that because you did not consider this an

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1 investigation of a crime scene?

2 A. I just never had the opportunity. I mean, I'm not  
3 sure. I never determined whether it was a crime scene or  
4 not. There was nothing there to determine that.

5 Q. Does that mean you didn't -- did you observe any  
6 unlawful activity?

7 MR. WILKERSON: Object to form.

8 You can answer.

9 A. I have no idea.

10 Q. (BY MS. LLOYD) When you rent the planes from the  
11 airport, is there more paperwork involved than just filling  
12 out your logbook?

13 A. You fill out the odometer and the time on the  
14 aircraft, you fill out for the company as to the time you  
15 took the aircraft out and the time you brought it in,  
16 subtract the difference and that's the hours they charge  
17 you for. That's the only thing you fill out.

18 Q. There's no flight plan or anything like that --

19 A. No.

20 Q. -- that you record?

21 A. No.

22 Q. Okay.

23 MS. LLOYD: That is all the questions I have.

24 MR. WILKERSON: I have no questions.

25 MS. LLOYD: Do you want to advise him about

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1 the read and sign?

2 MR. WILKERSON: Sure. Sir, you have the  
3 right to read and sign the deposition. The court reporter  
4 will make a written transcript of the deposition. If you  
5 choose to, she can get you a copy of that first before it's  
6 distributed to everyone else so you have a chance to read  
7 over it and make sure the answers that you gave today are  
8 accurate and that she took them down accurately. You could  
9 make certain corrections if you needed to and then sign.  
10 Or you can waive that right if you believe that what you've  
11 said today is accurate and she did a good job taking it  
12 down. You just need to tell her on the record if you want  
13 to waive that right to read and sign or if you'd like the  
14 opportunity to read and sign it first.

15 THE WITNESS: I see no reason to read and  
16 sign. I'll waive it. That's no problem.

17 THE VIDEOGRAPHER: We're off the record,  
18 10:41 a.m.

19 (End of proceedings at 10:41 a.m.)  
20  
21  
22  
23  
24  
25



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1 STATE OF OKLAHOMA)

2 I, Lisa Smith, a Certified Shorthand Reporter in and  
3 for the State of Oklahoma, do hereby certify that, pursuant  
4 to the agreement hereinbefore set forth, there came before  
5 me on the 10th day of April, A.D., 2009, at 8:36 a.m. , in  
6 the offices of Rhodes, Hieronymus, Jones, Tucker & Gable,  
7 PLLC, located at 100 West Fifth Street, Suite 400, in the  
8 City of Tulsa, State of Oklahoma, the following named  
9 person, to wit: DANNY LYNCHARD, who was by me duly  
10 cautioned and sworn to testify the truth, the whole truth  
11 and nothing but the truth, of his knowledge touching and  
12 concerning the matters in controversy in this cause; and  
13 that he was thereupon carefully examined upon his oath, and  
14 his examination was reduced to writing under my  
15 supervision; that the deposition is a true record of the  
16 testimony given by the witness; signature of the witness  
17 being waived pursuant to agreement of the parties; and that  
18 the amount of time used by each party at the deposition is  
19 as follows:

20 Mr. Dolan - 01 hours, 39 minutes,

21 Ms. Lloyd - 00 hours, 06 minutes,

22 Mr. Wilkerson - 00 hours, 00 minutes.

23 I further certify that I am neither attorney or  
24 counsel for, nor related to or employed by, any of the  
25 parties to the action in which this deposition is taken,

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1 and further that I am not a relative or employee of any  
2 attorney or counsel employed by the parties hereto, or  
3 financially interested in the action.

4 I further certify that, before completion of the  
5 deposition, the Deponent \_\_\_\_\_, and/or the  
6 Plaintiff/Defendant \_\_\_\_\_, did \_\_\_\_\_ did not \_\_\_\_\_ request  
7 to review the transcript.

8 In witness whereof, I have hereunto set my hand and  
9 affixed my seal this 21st day of April, A.D., 2009.



10 Lisa Smith

11 LISA SMITH, OK CSR 01778

12 Expiration Date: 12/31/2009

Esquire Deposition Solutions

Firm Registration No. 286

13 1700 Pacific Avenue, Suite 4750

Dallas, Texas 75201

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